

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 7, 2011

AMENDED IN ASSEMBLY MARCH 3, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 189

Introduced by Assembly Member Eng
(Coauthors: Assembly Members Alejo, Fong, Roger Hernández,
Mendoza, Swanson, and Torres)

January 26, 2011

An act to amend Sections 42605 and 52612 of the Education Code, relating to education funding.

LEGISLATIVE COUNSEL'S DIGEST

AB 189, as amended, Eng. Education funding.

(1) Existing law establishes various categorical education programs and appropriates the funding for those programs in the annual Budget Act. Existing law requires the Superintendent of Public Instruction, for the 2008–09 to 2014–15 fiscal years, inclusive, to apportion from the amounts provided in the annual Budget Act for specified categorical education programs an amount based on the same relative proportion that the local educational agency received in the 2008–09 fiscal year for those programs and authorizes school districts, for those fiscal years, to use these funds, with specified exceptions, for any educational purpose, to the extent permitted by federal law.

Existing law requires, as a condition of receipt of the above-described funds for any educational purpose, the governing board of a school

district or county office of education, as appropriate, to discuss, approve, or disapprove the proposed use of funding and to make explicit the purposes for which each item of appropriation for specified categorical education programs will be used at a regularly scheduled open public hearing.

This bill would require that public hearing to be held prior to and independent of a meeting where the governing board of a school district or county office of education adopts a budget. The bill would also require the governing board to identify the program or programs to be closed ~~prior to~~ *before* the public hearing, as specified.

~~(2) Existing law requires a local educational agency to report expenditures of certain categorical education program funds for any educational purpose using the Standardized Account Code Structure, as specified, and requires the State Department of Education to collect and provide this information to the Department of Finance and appropriate legislative committees by a specified date.~~

~~This bill would require the State Department of Education to establish a unique resource code for these funds and to inform local educational agencies that these funds are required to be considered general purpose nonrevenue limit funding for the purposes of reporting expenditures.~~

~~(3)~~

(2) Existing law authorizes the governing board of a school district maintaining an adult class to require an adult enrolled in the class to pay a fee and prohibits the governing board from imposing a charge for a class in English and citizenship for foreigners or a class in an elementary subject, except as specified.

This bill would authorize the governing board of a school district to charge for a class in English and citizenship until July 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42605 of the Education Code is amended
2 to read:

3 42605. (a) (1) Unless otherwise prohibited under federal law
4 or otherwise specified in subdivision (e), for the 2008–09 fiscal
5 year to the 2014–15 fiscal year, inclusive, recipients of funds from
6 the items listed in paragraph (2) may use funding received, pursuant
7 to subdivision (b), from any of these items listed in paragraph (2)

1 that are contained in ~~an~~ *Section 2.00 of the* annual Budget Act, for
2 any educational purpose.

3 (2) Items 6110-104-0001, 6110-105-0001, 6110-108-0001,
4 6110-122-0001, 6110-124-0001, 6110-137-0001, 6110-144-0001,
5 6110-150-0001, 6110-151-0001, 6110-156-0001, 6110-181-0001,
6 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001,
7 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001,
8 6110-209-0001, 6110-211-0001, 6110-227-0001, 6110-228-0001,
9 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001,
10 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001,
11 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-266-0001,
12 6110-267-0001, 6110-268-0001, and 6360-101-0001 of Section
13 2.00.

14 (b) (1) For the 2009–10 fiscal year to the 2014–15 fiscal year,
15 inclusive, the Superintendent or other administering state agency,
16 as appropriate, shall apportion from the amounts provided in the
17 annual Budget Act for the items enumerated in paragraph (2) of
18 subdivision (a) an amount to recipients based on the same relative
19 proportion that the recipient received in the 2008–09 fiscal year
20 for the programs funded through the items enumerated in paragraph
21 (2) of subdivision (a).

22 (2) This section and Section 42 of Chapter 12 of the Third
23 Extraordinary Session of the Statutes of 2009 do not authorize a
24 school district that receives funding on behalf of a charter school
25 pursuant to Sections 47634.1 and 47651 to redirect this funding
26 for another purpose unless otherwise authorized in law or pursuant
27 to an agreement between a charter school and its chartering
28 authority. Notwithstanding paragraph (1), for the 2008–09 fiscal
29 year to the 2014–15 fiscal year, inclusive, a school district that
30 receives funding on behalf of a charter school pursuant to Sections
31 47634.1 and 47651 shall continue to distribute the funds to those
32 charter schools based on the relative proportion that the school
33 district distributed in the 2007–08 fiscal year, and shall adjust those
34 amounts to reflect changes in charter school attendance in the
35 district. The amounts allocated shall be adjusted for any greater
36 or lesser amount appropriated for the items enumerated in
37 paragraph (2) of subdivision (a). For a charter school that began
38 operation in the 2008–09 fiscal year, if a school district received
39 funding on behalf of that charter school pursuant to Sections
40 47634.1 and 47651, the school district shall continue to distribute

1 the funds to that charter school based on the relative proportion
2 that the school district distributed in the 2008–09 fiscal year and
3 shall adjust the amount of those funds to reflect changes in charter
4 school attendance in the district. The amounts allocated shall be
5 adjusted for any greater or lesser amount appropriated for the items
6 enumerated in paragraph (2) of subdivision (a).

7 (3) Notwithstanding paragraph (1), for the 2008–09 fiscal year
8 to the 2014–15 fiscal year, inclusive, the Superintendent shall
9 apportion from the amounts appropriated by Item 6110-211-0001
10 of Section 2.00 of the annual Budget Act an amount to a charter
11 school in accordance with the per-pupil methodology prescribed
12 in subdivision (c) of Section 47634.1.

13 (4) Notwithstanding paragraph (1), for the 2008–09 fiscal year
14 to the 2014–15 fiscal year, inclusive, the Superintendent shall
15 apportion from the amounts provided in the annual Budget Act an
16 amount to a school district, charter school, and county office of
17 education based on the same relative proportion that the local
18 educational agency received in the 2007–08 fiscal year for the
19 programs funded through the following items contained in Section
20 2.00 of the annual Budget Act: 6110-104-0001, 6110-105-0001,
21 6110-156-0001, 6110-190-0001, Schedule (3) of 6110-193-0001,
22 6110-198-0001, 6110-232-0001, and Schedule (2) of
23 6110-240-0001.

24 (5) For purposes of paragraph (4), if a direct-funded charter
25 school began operation in the 2008–09 fiscal year, the amount that
26 the charter school was entitled to receive from the items
27 enumerated in paragraph (4) for the 2008–09 fiscal year, as certified
28 by the Superintendent in March 2009, is deemed to have been
29 received in the 2007–08 fiscal year.

30 (c) (1) This section does not obligate the state to refund or repay
31 reductions made pursuant to this section. A decision by a school
32 district to reduce funding pursuant to this section for a
33 state-mandated local program shall constitute a waiver of the
34 subvention of funds that the school district is otherwise entitled to
35 pursuant to Section 6 of Article XIII B of the California
36 Constitution on the amount so reduced.

37 (2) (A) As a condition of receipt of funds, the governing board
38 of the school district or board of the county office of education,
39 as appropriate, at a regularly scheduled open public hearing shall
40 take testimony from the public, discuss, approve or disapprove the

proposed use of funding, and make explicit for each of the budget items in paragraph (2) of subdivision (a) the purposes for which the funds will be used.

(B) The regularly scheduled open public hearing held pursuant to subparagraph (A) shall be held prior to and independent of a meeting where the governing board of the school district or governing board of the county office of education adopts a budget. If the governing board intends to close a program funded by the items listed in paragraph (2) of subdivision (a), the governing board shall identify, in the notice of the agenda of the public hearing or at another public hearing, the program or programs proposed to be closed.

(3) Using the Standardized Account Code Structure reporting process, a local educational agency shall report expenditures of funds pursuant to the authority of this section by using the appropriate function codes to indicate the activities for which these funds are expended. The department shall collect and provide this information to the Department of Finance and the appropriate policy and budget committees of the Legislature by April 15, 2010, and annually thereafter on April 15 until, and including, April 15, 2016.

(d) For the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, local educational agencies that use the flexibility provision of this section shall be deemed to be in compliance with the program and funding requirements contained in statutory, regulatory, and provisional language, associated with the items enumerated in subdivision (a).

(e) Notwithstanding subdivision (d), the following requirements shall continue to apply:

(1) For Item 6110-105-0001 of Section 2.00 of the annual Budget Act, the amount authorized for flexibility shall exclude the funding provided to fund remedial educational services pursuant to Provision 4. For Item 6110-156-0001 of Section 2.00 of the annual Budget Act, the amount authorized for flexibility shall exclude the funding provided for instruction of CalWORKs-eligible students pursuant to Schedules (2) and (3) and Provisions 2 and 4.

(2) (A) Any instructional materials purchased by a local educational agency shall be the materials adopted by the state board for kindergarten and grades 1 to 8, inclusive, and for grades

9 to 12, inclusive, the materials purchased shall be aligned with state standards as defined by Section 60605, and shall also meet the reporting and sufficiency requirements contained in Section 60119.

(B) For purposes of this section, “sufficiency” means that each pupil has sufficient textbooks and instructional materials in the four core areas as defined by Section 60119 and that all pupils within the local educational agency who are enrolled in the same course shall have identical textbooks and instructional materials, as specified in Section 1240.3.

(3) For Item 6110-195-0001 of Section 2.00 of the annual Budget Act, the item shall exclude moneys that are required to fund awards for teachers that have previously met the requirements necessary to obtain these awards, until the award is paid in full.

(4) For Item 6110-266-0001 of Section 2.00 of the annual Budget Act, a county office of education shall conduct at least one site visit to each of the required schoolsites pursuant to Section 1240 and shall fulfill all of the duties set forth in Sections 1240 and 44258.9.

(5) For Item 6110-198-0001 of Section 2.00 of the annual Budget Act, a school district or county office of education that operates the child care component of the Cal-SAFE program shall comply with paragraphs (5) and (6) of subdivision (c) of Section 54746.

(f) This section does not invalidate any state law pertaining to teacher credentialing requirements or the functions that require credentials.

SECTION 1. ~~Section 42605 of the Education Code is amended to read:~~

~~42605. (a) (1) Unless otherwise prohibited under federal law or otherwise specified in subdivision (e), for the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, recipients of funds from the items listed in paragraph (2) may use funding received, pursuant to subdivision (b), from any of these items listed in paragraph (2) that are contained in Section 2.00 of the annual Budget Act, for any educational purpose.~~

~~(2) Items 6110-104-0001, 6110-105-0001, 6110-108-0001, 6110-122-0001, 6110-124-0001, 6110-137-0001, 6110-144-0001, 6110-150-0001, 6110-151-0001, 6110-156-0001, 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001,~~

1 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001,
2 6110-209-0001, 6110-211-0001, 6110-227-0001, 6110-228-0001,
3 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001,
4 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001,
5 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-266-0001,
6 6110-267-0001, 6110-268-0001, and 6360-101-0001 of Section
7 2.00.

8 (b) (1) For the 2009–10 fiscal year to the 2014–15 fiscal year,
9 inclusive, the Superintendent or other administering state agency,
10 as appropriate, shall apportion from the amounts provided in the
11 annual Budget Act for the items enumerated in paragraph (2) of
12 subdivision (a) an amount to recipients based on the same relative
13 proportion that the recipient received in the 2008–09 fiscal year
14 for the programs funded through the items enumerated in paragraph
15 (2) of subdivision (a).

16 (2) This section and Section 42 of Chapter 12 of the Third
17 Extraordinary Session of the Statutes of 2009 do not authorize a
18 school district that receives funding on behalf of a charter school
19 pursuant to Sections 47634.1 and 47651 to redirect this funding
20 for another purpose unless otherwise authorized in law or pursuant
21 to an agreement between a charter school and its chartering
22 authority. Notwithstanding paragraph (1), for the 2008–09 fiscal
23 year to the 2014–15 fiscal year, inclusive, a school district that
24 receives funding on behalf of a charter school pursuant to Sections
25 47634.1 and 47651 shall continue to distribute the funds to those
26 charter schools based on the relative proportion that the school
27 district distributed in the 2007–08 fiscal year, and shall adjust those
28 amounts to reflect changes in charter school attendance in the
29 district. The amounts allocated shall be adjusted for any greater
30 or lesser amount appropriated for the items enumerated in
31 paragraph (2) of subdivision (a). For a charter school that began
32 operation in the 2008–09 fiscal year, if a school district received
33 funding on behalf of that charter school pursuant to Sections
34 47634.1 and 47651, the school district shall continue to distribute
35 the funds to that charter school based on the relative proportion
36 that the school district distributed in the 2008–09 fiscal year and
37 shall adjust the amount of those funds to reflect changes in charter
38 school attendance in the district. The amounts allocated shall be
39 adjusted for any greater or lesser amount appropriated for the items
40 enumerated in paragraph (2) of subdivision (a).

1 ~~(3) Notwithstanding paragraph (1), for the 2008–09 fiscal year~~
2 ~~to the 2014–15 fiscal year, inclusive, the Superintendent shall~~
3 ~~apportion from the amounts appropriated by Item 6110-211-0001~~
4 ~~of Section 2.00 of the annual Budget Act an amount to a charter~~
5 ~~school in accordance with the per-pupil methodology prescribed~~
6 ~~in subdivision (c) of Section 47634.1.~~

7 ~~(4) Notwithstanding paragraph (1), for the 2008–09 fiscal year~~
8 ~~to the 2014–15 fiscal year, inclusive, the Superintendent shall~~
9 ~~apportion from the amounts provided in Section 2.00 of the annual~~
10 ~~Budget Act an amount to a school district, charter school, and~~
11 ~~county office of education based on the same relative proportion~~
12 ~~that the local educational agency received in the 2007–08 fiscal~~
13 ~~year for the programs funded through the following items contained~~
14 ~~in Section 2.00 of the annual Budget Act: 6110-104-0001,~~
15 ~~6110-105-0001, 6110-156-0001, 6110-190-0001, Schedule (3) of~~
16 ~~6110-193-0001, 6110-198-0001, 6110-232-0001, and Schedule~~
17 ~~(2) of 6110-240-0001.~~

18 ~~(5) For purposes of paragraph (4), if a direct-funded charter~~
19 ~~school began operation in the 2008–09 fiscal year, the amount that~~
20 ~~the charter school was entitled to receive from the items~~
21 ~~enumerated in paragraph (4) for the 2008–09 fiscal year, as certified~~
22 ~~by the Superintendent in March 2009, is deemed to have been~~
23 ~~received in the 2007–08 fiscal year.~~

24 ~~(e) (1) This section does not obligate the state to refund or repay~~
25 ~~reductions made pursuant to this section. A decision by a school~~
26 ~~district to reduce funding pursuant to this section for a~~
27 ~~state-mandated local program shall constitute a waiver of the~~
28 ~~subvention of funds that the school district is otherwise entitled to~~
29 ~~pursuant to Section 6 of Article XIII B of the California~~
30 ~~Constitution on the amount so reduced.~~

31 ~~(2) (A) As a condition of receipt of funds, the governing board~~
32 ~~of the school district or governing board of the county office of~~
33 ~~education, as appropriate, at a regularly scheduled open public~~
34 ~~hearing shall take testimony from the public, discuss, approve or~~
35 ~~disapprove the proposed use of funding, and make explicit for each~~
36 ~~of the budget items in paragraph (2) of subdivision (a) the purposes~~
37 ~~for which the funds will be used.~~

38 ~~(B) The regularly scheduled open public hearing held pursuant~~
39 ~~to subparagraph (A) shall be held prior to and independent of a~~
40 ~~meeting where the governing board of the school district or~~

governing board of the county office of education adopts a budget. If the governing board intends to close a program funded by the items listed in paragraph (2) of subdivision (a), the governing board shall identify, in the notice of the agenda of the public hearing or at another public hearing, the program or programs proposed to be closed.

~~(3) Using the Standardized Account Code Structure reporting process, a local educational agency shall report expenditures of funds pursuant to the authority of this section by using the appropriate function codes to indicate the activities for which these funds are expended. The department shall establish a unique resource code for funding allocated pursuant to this section and inform local educational agencies that funding allocated pursuant to this section shall be considered general purpose nonrevenue limit funding for the purposes of reporting expenditures. The department shall collect and provide this information to the Department of Finance and the appropriate policy and budget committees of the Legislature by April 15, 2010, and annually thereafter on April 15 until, and including, April 15, 2016.~~

~~(d) For the 2008-09 fiscal year to the 2014-15 fiscal year, inclusive, local educational agencies that use the flexibility provision of this section shall be deemed to be in compliance with the program and funding requirements contained in statutory, regulatory, and provisional language, associated with the items enumerated in subdivision (a).~~

~~(e) Notwithstanding subdivision (d), the following requirements shall continue to apply:~~

~~(1) For Item 6110-105-0001 of Section 2.00 of the annual Budget Act, the amount authorized for flexibility shall exclude the funding provided to fund remedial educational services pursuant to Provision 4. For Item 6110-156-0001 of Section 2.00 of the annual Budget Act, the amount authorized for flexibility shall exclude the funding provided for instruction of CalWORKs-eligible students pursuant to Schedules (2) and (3) and Provisions 2 and 4.~~

~~(2) (A) Any instructional materials purchased by a local educational agency shall be the materials adopted by the state board for kindergarten and grades 1 to 8, inclusive, and for grades 9 to 12, inclusive, the materials purchased shall be aligned with state standards as defined by Section 60605, and shall also meet~~

1 the reporting and sufficiency requirements contained in Section
2 60119.

3 (B) For purposes of this section, “sufficiency” means that each
4 pupil has sufficient textbooks and instructional materials in the
5 four core areas as defined by Section 60119 and that all pupils
6 within the local educational agency who are enrolled in the same
7 course shall have identical textbooks and instructional materials;
8 as specified in Section 1240.3.

9 (3) For Item 6110-195-0001 of Section 2.00 of the annual
10 Budget Act, the item shall exclude moneys that are required to
11 fund awards for teachers that have previously met the requirements
12 necessary to obtain these awards, until the award is paid in full.

13 (4) For Item 6110-266-0001 of Section 2.00 of the annual
14 Budget Act, a county office of education shall conduct at least one
15 site visit to each of the required schoolsites pursuant to Section
16 1240 and shall fulfill all of the duties set forth in Sections 1240
17 and 44258.9.

18 (5) For Item 6110-198-0001 of Section 2.00 of the annual
19 Budget Act, a school district or county office of education that
20 operates the child care component of the Cal-SAFE program shall
21 comply with paragraphs (5) and (6) of subdivision (c) of Section
22 54746.

23 (f) This section does not invalidate any state law pertaining to
24 teacher credentialing requirements or the functions that require
25 credentials.

26 SEC. 2. Section 52612 of the Education Code is amended to
27 read:

28 52612. (a) Except as specified in this section, the governing
29 board of the school district maintaining the class may require an
30 adult enrolled in a class for adults to pay a fee for the class. Except
31 as specified in Section 52613, the governing board of a school
32 district shall not impose a charge of any kind for a class in English
33 and citizenship or a class in an elementary subject. A fee charge
34 shall not be made for a class designated by the governing board
35 as a class for which high school credit is granted when the class
36 is taken by a person who does not hold a high school diploma. The
37 total of the fees required and revenues derived from average daily
38 attendance shall not exceed the estimated cost of all such classes
39 maintained, including the reserves authorized by Section 52501.5.

1 (b) All textbooks and classroom materials furnished without
2 charge under this section may also be offered for sale at the school
3 bookstore.

4 (c) Notwithstanding subdivision (a), the governing board of a
5 school district may charge a fee for a class in English and
6 citizenship until July 1, 2015.

O